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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,245	08/18/2003	David R. Fischell	A3-03	2995
7590 02/07/2006			EXAMINER	
Dr. Robert E. Fischell 14600 Viburnum Drive Dayton, MD 21036			JACKSON, BRYAN M	
			ART UNIT	PAPER NUMBER
			3762	
DATE MAILED: 02/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/642,245		FISCHELL ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Bryan M. Jackson		3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to detecting a cardiac event, classified in class 600, subclass 509.
- II. Claim 14-25, drawn to detecting and calculating an R-R interval, classified in class 600, subclass 521.
- III. Claims 26-33, drawn to detecting a shift in a specific sub-segment, classified in class 600, subclass 516.
- IV. Claims 34-35, drawn to detecting and comparing the slope of an electrogram signal with a predetermined threshold, classified in class 607, subclass 26.

Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different functions (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions I, II, III, and IV are unrelated.

Invention I requires the determining that a cardiac event has occurred when at least M out of N abnormal beats occur during the processing of the electrical signal before the occurrence of M-N+1 normal beats, but inventions II, III, and IV do not require the stated function.

Art Unit: 3762

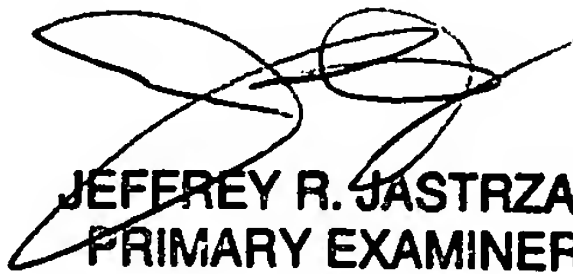
Invention II requires the adjusting the start time of the sub-segment responsive to the calculated R-R interval, but inventions I, III, and IV do not require the stated function.

Invention III requires a first and second set of parameters for detecting a shift in the specific sub-segment of the heart beat, but inventions I, II, and IV do not require the stated function.

Invention IV requires the comparing the slope of the electrogram signal with a threshold, but inventions I, II, and III do not require the stated function.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication should be directed to Bryan M. Jackson at telephone number 571-272-7335.

  
JEFFREY R. JASTRZAB  
PRIMARY EXAMINER  
2/3/06